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7 UNITED STATES DISTRICT COURT FOR THE
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 AMERICAN DELTA PARTY; and ROQUE
11 “ROCKY” DE LA FUENTE,

12 Plaintiffs,
13 vs.

14 KIM WYMAN, in her official capacity as the
15 Secretary of State of the State of Washington,

16 Defendant.

17 Case No.: 3:20-cv-05045-BHS

18 AMENDED COMPLAINT FOR
19 DECLARATORY AND INJUNCTIVE
20 RELIEF

21 I. **NATURE OF THE COMPLAINT: AMENDED COMPLAINT FOR**
DECLARATORY AND INJUNCTIVE RELIEF

22 1. Plaintiff, AMERICAN DELTA PARTY by and through its undersigned legal
23 counsel, files this civil action pursuant to 42 U.S.C. § 1983 for prospective equitable and
24 declaratory relief against Defendant, KIM WYMAN, made a party to this action in her official
25 capacity as the Secretary of State for the State of Washington, and as the chief elections official
26 charged with enforcement of Washington Election Code, RCW 29A.56.600, RCW 29A.56.610,
27 RCW 29A.56.620, RCW 29A.56.630, RCW 29A.56.640, RCW 29A.56.650, RCW 29A.56.660
28 and RCW 29A.56.670, which Plaintiff AMERICAN DELTA PARTY alleges violate rights
guaranteed to Plaintiff AMERICAN DELTA PARTY under the First and Fourteenth

1 Amendments and the Equal Protection Clause of the Fourteenth Amendment to the United
 2 States Constitution, to the extent that the above referenced challenged statutory provisions
 3 require Plaintiff AMERICAN DELTA PARTY to organize, provide notice, and hold a
 4 convention in the State of Washington to nominate Plaintiff's nominees for president and vice-
 5 president of the United States. Plaintiff AMERICAN DELTA PARTY also alleges that RCW
 6 29A.56.660 and RCW 29A.56.670 violate rights guaranteed to Plaintiff under the Presidential
 7 Elector Qualifications Clause of Article II, Section 1, Clause 2 of the United States
 8 Constitution, to the extent the challenged statutory provisions require, or Defendant interprets to
 9 require, that Plaintiff AMERICAN DELTA PARTY must select residents of the State of
 10 Washington to be its candidates for the Washington State Electoral College in excess of the
 11 exclusive list of qualifications imposed under the Presidential Elector Qualifications Clause.

12 2. Plaintiff, ROQUE "ROCKY" DE LA FUENTE by and through his undersigned
 13 legal counsel, files this civil action pursuant to 42 U.S.C. § 1983 for prospective equitable and
 14 declaratory relief against Defendant, KIM WYMAN, made a party to this action in her official
 15 capacity as the Secretary of State for the State of Washington and as the chief elections official
 16 charged with enforcement of Washington Election Code, RCW 29A.56.031, which Plaintiff
 17 alleges violates rights guaranteed to him under the Presidential Qualifications Clause of Article
 18 II, Section 1, Clause 5 of the United States Constitution, as an unconstitutional additional
 19 qualification to seek the office of President of the United States, and the First and Fourteenth
 20 Amendments to the United States Constitution, as an excessive ballot access filing fee as
 21 authorized and/or permitted to be imposed on presidential candidates by the challenged statute.

22 II. JURISDICTION

23 3. Jurisdiction lies in this Court under 28 U.S.C. § 1331, providing that the district

courts of the United States shall have original jurisdiction of all civil actions arising under the Constitution of the United States.

4. Moreover, jurisdiction lies under 42 U.S.C. § 1983 and 28 U.S.C. § 1331(a), the jurisdictional counterpart of 42 U.S.C. § 1983, as Plaintiffs allege violation of rights guaranteed to them under the United States Constitution.

III. VENUE

5. Venue is proper in the United States District Court for the Western District of Washington, Tacoma Division under 28 U.S.C. § 1391, as Defendant exercises her statutory authority as the chief elections official of the State of Washington within this district, maintains official offices within this district and all of the events and/or omissions giving rise to the claims advanced in this litigation occurred in this district.

IV. PARTIES

6. Plaintiff AMERICAN DELTA PARTY is a political party organized in 2016 to nominate and advocate the election of presidential and vice-presidential candidates to oppose candidates nominated for those offices by the Republican and Democratic Parties, and who advocate: (1) adherence to the United States Constitution; (2) conservative economic and foreign policy positions; (3) moderate positions on social policy issues which do not entangle the government in the personal affairs of the citizenry; and (4) uniform, nondiscriminatory and less restrictive ballot access rules for candidates for federal, state and local office. Plaintiff intends to nominate candidates for the Office of the President of the United States and Vice-President of the United States in the 2020 and 2024 general elections. The chairman of Plaintiff AMERICAN DELTA PARTY is Mohamad Nasser Alkassmi. Plaintiff AMERICAN DELTA PARTY is headquartered at 564 Saint Matthews Road, West Pikeland Township in Berk

1 County, Pennsylvania.

2 7. Plaintiff ROQUE “ROCKY” DE LA FUENTE (hereinafter “Plaintiff DE LA
 3 FUENTE”), is a registered voter and a member of the Republican Party and is a declared
 4 candidate for the 2020 presidential nomination of the Republican National Convention.
 5 Plaintiff DE LA FUENTE registered as a presidential candidate seeking the 2020 Republican
 6 Party presidential nomination with the Federal Elections Commission (hereinafter “FEC”) on
 7 May 16, 2019. Plaintiff DE LA FUENTE’s FEC presidential identification number is
 8 P60016342. Plaintiff DE LA FUENTE has also announced his intention to seek the presidential
 9 nomination of the Republican Party in 2024. As a candidate for the 2020 Republican Party
 10 presidential nomination, Plaintiff DE LA FUENTE sought to secure ballot access to
 11 Washington’s 2020 Republican presidential primary election seeking to contest for
 12 Washington’s 44 delegates and 44 alternate delegates to the 2020 Republican National
 13 Convention. However, Plaintiff DE LA FUENTE refused to pay a \$12,000 bribe to the
 14 Washington Republican Party as a condition precedent to securing access to the Washington
 15 Republican presidential primary election. Plaintiff DE LA FUENTE is a resident of San Diego
 16 county in the State of California.

20 8. Plaintiff DE LA FUENTE is over the age of 35, is a natural born citizen of the
 21 United States of America, having been born in San Diego, California and has been a continual
 22 resident of the United States for over 35 years.

24 9. Plaintiff DE LA FUENTE satisfies all of the qualifications enumerated under the
 25 Presidential Qualification Clause of Article II, section 1, clause 5 of the United States
 26 Constitution.

27 10. Defendant Kim Wyman, is the Secretary of State of the State of Washington and

1 is made a party to this action in her official capacity as the official charged with enforcement of
 2 the Washington Election Code, including the statutory provisions challenged in this lawsuit,
 3 RCW 29A.56.031, RCW 29A.56.600, RCW 29A.56.610, RCW 29A.56.620, RCW 29A.56.630,
 4 RCW 29A.56.640, RCW 29A.56.650, RCW 29A.56.660 and RCW 29A.56.670. Defendant's
 5 principal place of business is located at 416 Sid Snyder Avenue, S.W., Olympia, Washington
 6 98504-02220.

8 **V. FACTUAL ALLEGATIONS RELATED TO PLAINTIFF AMERICAN DELTA**
 9 **PARTY'S CLAIMS**

10 11. Plaintiff AMERICAN DELTA PARTY is governed by an executive committee,
 which is chaired by the Chairman, who is currently Mohamad Nasser Alkassmi.

12 13. The authority of the executive committee of Plaintiff AMERICAN DELTA
 PARTY is set forth in the Bylaws of the American Delta Party.

15 16. Rule 8 of the Bylaws of the American Delta Party establishes that the executive
 committee of the Plaintiff AMERICAN DELTA PARTY is vested with the exclusive authority
 to determine who shall be the party's nominee for the Office of President of the United States
 and nominee for the Office of Vice-President of the United States.

19 20. Rule 10 of the Bylaws of the American Delta Party prohibit state party members
 from organizing and/or participating in local or state nominating conventions to nominate
 candidates for the Office of President of the United States or the Office of Vice-President of the
 United States.

24 25. Rule 16 of the Bylaws of the American Delta Party only permit individual state
 party members to nominate American Delta Party candidates for state and local political office.

27 28. Rule 9 of the Bylaws of the American Delta Party expressly prohibits and denies

1 the authority of state governments the authority to impose any rules or statutory requirements
 2 that require state or local nominating conventions to nominate Plaintiff AMERICAN DELTA
 3 PARTY's nominee for the Office of President of the United States or the nominee for the Office
 4 of Vice-President of the United States.
 5

6 17. Rule 9 of the Bylaws of the American Delta Party also expressly prohibits and
 7 denies the authority of state governments to permit registered voters who are not members of
 8 the executive board of the American Delta Party to associate with the American Delta Party
 9 and/or to participate in the nomination of the party's presidential and vice-presidential
 10 candidates.
 11

12 18. Rule 8 of the Bylaws of the American Delta Party establishes that the executive
 13 committee of the Plaintiff AMERICAN DELTA PARTY is vested with the exclusive authority
 14 to determine who shall be the candidates to serve as the party's nominees for presidential
 15 electors in the fifty (50) states and permits the executive committee to select any candidate that
 16 meets the qualifications of Article II, Section 1, Clause 2 of the United States Constitution,
 17 including candidates who are not current residents of the state in which they are nominated.
 18

19 19. Rule 9 of the Bylaws of the American Delta Party expressly prohibits and denies
 20 the authority of state governments to permit registered voters who are not members of the
 21 executive board of the American Delta Party to associate with the American Delta Party and/or
 22 to participate in the nomination process of the party's electoral college candidates/nominees.
 23

24 20. Rule 17 of the Bylaws of the American Delta Party permit non-party members to
 25 sign election petitions to place the names of the American Delta Party's presidential and vice-
 26 presidential nominees on state general election ballots.
 27

28 21. The Plaintiff AMERICAN DELTA PARTY is a new or minor political party

1 pursuant to RCW 29A.56.600.

2 22. RCW 29A.56.600 defines a “convention” as an “organized assemblage of
3 registered voters representing an independent candidate or candidates or a new or minor
4 political party, organization, or principle.”

5 23. RCW 29A.56.610 requires that in the State of Washington that:

6 “Nominations of candidates for president and vice president of the United States, other
7 than by a major political party, may be made at a convention conducted not earlier than
8 the first Saturday in May and not later than the fourth Saturday in July in the year that
9 president and vice president appear on the general election ballot. A minor party may
10 hold more than one convention but in no case shall any such party nominate more than
11 one candidate for president or more than one candidate for vice president. To be valid, a
12 convention must be attended by at least one hundred registered voters, but a minor party
13 or independent candidate holding multiple conventions may add together the number of
signatures of different individuals from each convention in order to obtain and submit to
the secretary of state the signatures of at least one thousand registered voters of the state
of Washington.”

14 24. RCW 29A.56.620 requires Plaintiff AMERICAN DELTA PARTY to provide
15 “notice in a newspaper of general circulation within the county in which the party or the
16 candidate intends to hold a convention.” RCW 29A.56.620 further requires that “the notice
17 must appear at least ten days before the convention is to be held, and shall state the date, time,
18 and place of the convention.” RCW 29A.56.620 provides that the notice “shall include the
19 mailing address of the person or organization sponsoring the convention.”

20 25. Plaintiff AMERICAN DELTA PARTY submits that the notice requirement of
21 RCW 29A.56.620 is unconstitutional and unnecessary as the convention requirement of RCW
22 29A.56.600 and RCW 29A.56.610 is unconstitutional under the First and Fourteenth
23 Amendments to the United States Constitution and the Equal Protection Clause of the
24 Fourteenth Amendment to the United States Constitution, and should be stricken and enjoined.

25 26. RCW 29A.56.630 provides that “a nominating petition submitted under this

1 chapter shall clearly identify the name of the minor party or independent candidate convention
2 as it appears on the certificate of nomination as required by RCW 29A.56.640.

3 27. As the requirement for Plaintiff AMERICAN DELTA PARTY to hold a
4 nomination convention in the state of Washington is unconstitutional, reference to “convention”
5 in RCW 29A.56.630 is unconstitutional and should be stricken and enjoined.

6 28. RCW 29A.56.640 requires, in relevant part, Plaintiff AMERICAN DELTA
7 PARTY to file a “certificate evidencing nominations made at a convention” that must....(2)
8 contain the name of each person nominated. . . .;(3) identify the minor political party....on
9 whose behalf the convention was held; (4) be verified by the oath of the presiding officer or
10 secretary; (6) contain proof of publication of the notice of calling the convention...[.]

11 29. RCW 29A.56.640’s references to the certification and notice of the “convention”
12 and the requirement that the required certificate of nomination be verified by oath of the
13 presiding officer or secretary of the “convention” is unconstitutional and should be stricken and
14 enjoined.

15 30. RCW 29A.56.650 provides a mechanism whereby certificates of nomination
16 purporting to nominate different candidates permits Defendant to place the name of a candidate
17 not nominated by Plaintiff AMERICAN DELTA PARTY on the general election ballot,
18 because anyone unaffiliated with Plaintiff AMERICAN DELTA PARTY can steal Plaintiff’s
19 party name by conducting a convention in the state of Washington, which is prohibited by
20 Plaintiff’s bylaws.

21 31. Accordingly, RCW 29A.56.650 permits an unconstitutional convention to be
22 held under the name of the Plaintiff AMERICAN DELTA PARTY and nominate a presidential
23 candidate who was not nominated pursuant to the national nomination process of Plaintiff
24

1 AMERICAN DELTA PARTY, and should be stricken and enjoined.

2 32. RCW 29A.56.660 provides that:

3 “A minor political party...convention nominating candidates for the offices of president
4 and vice president of the United States shall, not later than ten days after the adjournment
5 of the convention, submit a list of presidential electors to the office of the secretary of
state.”

6 33. To the extent that RCW 29A.56.660 imposes a filing deadline tethered to the
7 “adjournment of the convention” and where the requirement to hold a convention in the state of
8 Washington is unconstitutional, the deadline made with reference to the “adjournment of the
9 convention” should be stricken and enjoined.

10 34. RCW 29A.56.660 also provides that the list of presidential electors “shall
11 contain the names and the mailing addresses of the persons selected and shall be verified by the
12 presiding officer of the convention.

13 35. To the further extent that RCW 29A.56.660 requires that the presiding officer of
14 the convention shall verify the names and mailing addresses of the persons selected as the
15 presidential electors of Plaintiff AMERICAN DELTA PARTY and where the requirement to
16 hold a convention in the state of Washington is unconstitutional and, therefore, no presiding
17 officer available to certify the list of presidential electors, the requirements of RCW 29A.56.660
18 related to the holding of a convention should be stricken and enjoined.

19 36. RCW 29A.56.670 provides that Defendant shall check the certificate...to
20 determine if the requirements of RCW 29A.56.640 have been met....[and] notify the presiding
21 officer of the convention...of his or her decision regarding the sufficiency of the certificate....

22 37. Defendant enforces the provisions of RCW 29A.56.660 and RCW 29A.56.670 to
23 require that the names listed as presidential electors must record an address within the state of
24

1 Washington in violation of the exclusive list of qualifications imposed by the Presidential
2 Elector Qualification clause of Article II, Section 1, Clause 2 of the United States Constitution.
3

4 38. The executive board of Plaintiff AMERICAN DELTA PARTY intends to
5 nominate candidates of president and vice president of the United States for the 2020 general
6 election and has not agreed or consented to permit unaffiliated voters in the state of Washington
7 to hold, conduct or participate in the party's nomination process.

8 39. The Supreme Court has held that states have no role in the presidential
9 nomination process of a political party.

10 40. Plaintiff AMERICAN DELTA PARTY has the associational right under the First
11 and Fourteenth Amendments to the United States Constitution to determine and limit who shall
12 be permitted to participate in their presidential and vice-presidential nomination process.

13 41. RCW 29A.56.610 expressly exempts the nomination of candidates for president
14 and vice president of the United States by convention by major political parties in violation if
15 the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

16 42. Defendant's threatened enforcement of the challenged statutes is the direct and
17 proximate cause of Plaintiff AMERICAN DELTA PARTY's constitutional injury as Plaintiff
18 plans for the 2020 and 2024 presidential and vice-presidential nomination process.

19 43. Plaintiff AMERICAN DELTA PARTY's injuries are the direct and proximate
20 result of Defendant's enforcement of the various convention requirements and residency
21 requirements for presidential electors imposed by RCW 29A.56.600 through RCW 29A.56.670
22 against Plaintiff AMERICAN DELTA PARTY.

23 44. Plaintiff AMERICAN DELTA PARTY has no other adequate relief at law.
24

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2 **VI. FACTUAL ALLEGATIONS RELATED TO PLAINTIFF DE LA FUENTE'S**
3 **CLAIMS**

4 45. The Presidential Qualification Clause of Article II, Section 1, Clause 5 of the
5 United States Constitution provides the exclusive list of qualifications for an individual to be
6 eligible to seek the Office of President of the United States.
7

8 46. Article II, section 1, clause 5 of the United States Constitution provides that:
9

10 No person except a natural born Citizen, or a Citizen of the United States, at the time of
11 the Adoption of this Constitution, shall be eligible to the Office of President; neither shall
12 any person be eligible to that Office who shall not have attained to the Age of thirty five
13 Years, and been fourteen Years a Resident within the United States.
14

15 47. Further, the United States Constitution provides the exclusive list of methods by
16 which a person otherwise eligible for the Office of President may be disqualified to hold the
17 Office of President under the following constitutional provisions:
18

- 19 (a) Article I, section 3, clause 7;
- 20 (b) Fourteenth Amendment, section 3;
- 21 (c) Twenty-Second Amendment.

22 48. Plaintiff DE LA FUENTE satisfies the constitutional requirements to hold the
23 Office of President of the United States.
24

25 49. Plaintiff DE LA FUENTE is not otherwise disqualified by any constitutional
26 provision from holding the Office of President of the United States.
27

28 50. No provision of the United States Constitution provides any authority for the
State of Washington to impose additional requirements on eligible citizens to hold the Office of
President that are not tethered to a State's legitimate interest to maintain an orderly ballot or
properly regulate Washington's election machinery.
29

1 51. Plaintiff DE LA FUENTE sought to challenge President Trump for the 2020
 2 Republican presidential nomination and qualified for multiple presidential primary election
 3 ballots in which candidates were able to secure ballot access without the imposition of
 4 additional qualifications such as the payment of mandatory contributions to state party
 5 organizations.

6 52. RCW 29A.56.031 provides that presidential candidates may only appear on
 7 Washington's presidential primary election ballot based on the following statutory
 8 requirements:

9 “Each party must determine which candidates are to be placed on the presidential primary
 10 ballot for that party. The chair of each party must submit to the secretary of state the
 11 names of the candidates to appear on the ballot for that party no later than sixty-three days
 12 before the presidential primary. Once submitted, changes must not be made to the
 13 candidates that will appear on the ballot. No later than the seventh day before the
 14 presidential nomination primary, the chair of each party must submit to the secretary of
 15 state the names of write-in candidates, if any, to be counted for that party.”

16 53. The Washington Republican presidential primary election is a taxpayer funded
 17 election contest.

18 54. RCW 29A.56.031 is not a provision which tests whether or not a candidate as a
 19 modicum of support within the electorate to secure access to Washington's presidential primary
 20 election ballot. The challenged provision simply imposes an additional qualification by
 21 delegating to a small number of party insiders the authority to impose self-serving additional
 22 requirements, such as requiring presidential candidates in 2020 to pay a mandatory donation of
 23 \$12,000 to the Washington Republican Party, as a condition precedent to secure access to
 24 Washington's presidential primary election ballot – a requirement beyond the exclusive list of
 25 qualifications enumerated in Article II, Section 1, Clause 5 of the United States Constitution.

26 55. No provision of the federal constitution provides that presidential candidates may

1 be forced to make large donations to a political party as a condition precedent to appear on an
2 election ballot made part of the process to select the next President of the United States.

3 56. In the 2020 presidential primary election, the Washington Republican Party used
4 its delegated authority under RCW 29A.56.031 to extort, as an additional qualification, \$12,000
5 donations from any presidential candidate challenging President Trump for the 2020 nomination
6 of the Republican National Convention.

7 57. In 2020, Plaintiff DE LA FUENTE complied with every requirement of the
8 Washington Republican Party to secure ballot access to Washington's 2020 presidential primary
9 election ballot except that he refused to pay a \$12,000 donation to the Washington Republican
10 Party.

11 58. In 2020, the Washington Republican Party took every action possible to prevent
12 Plaintiff DE LA FUENTE from securing support from members of the Republican State
13 Committee and refused and failed to provide accurate contact information to permit Plaintiff to
14 make contact with party leaders.

15 59. Accordingly, the challenged provisions of RCW 29A.56.031 subject presidential
16 candidates seeking the nomination of the Republican Party to arbitrary and capricious demands
17 by rival and contending factions within the Washington Republican Party, in excess of ballot
18 access restrictions that Defendant may constitutionally enforce and exceeds the limited
19 qualifications for presidential candidates established under the Presidential Qualifications
20 Clause.

21 60. RCW 29A.56.031 is not designed to avoid ballot clutter or promote a more
22 manageable ballot because each political party is permitted to place as many candidates on the
23 presidential primary ballot as the party demands – all without any requirement that candidates
24

1 demonstrate support within the party electorate beyond the executive board of the party.

2 61. RCW 29A.56.031 is not designed to force, or even permit, a candidate to show
3 any threshold of public support to secure access to the Washington presidential primary ballot.
4

5 62. RCW 29A.56.031 is not designed to promote an orderly or well-regulated
6 election process.
7

8 63. The delegation of unfettered authority to permit a state political party to deny
9 access to Washington's taxpayer funded presidential primary election ballot unless a candidate
10 make a large \$12,000 donation to the state party is not designed to promote an orderly or well-
11 regulated election process – it only promotes a corrupt election procedure.
12

13 64. RCW 29A.56.031 applies only to access to the presidential primary ballot and no
14 other election ballot.
15

16 65. Washington has a diminished state interest in regulating the presidential primary
17 election ballot because the presidential primary and general elections are the only elections
18 conducted within Washington which are decided outside the borders of the State.
19

20 66. The United States Supreme Court in *Anderson v. Celebrezze*, 460 U.S. 780
21 (1983), established that a state may not impose its most stringent ballot access restrictions to
22 prevent ballot access for presidential candidates.
23

24 67. RCW 29A.56.031's only purpose is to prevent otherwise eligible citizens from
25 being able to contest for the Office of President in their party's primary election who are not
26 provided permission by a small number of party officials.
27

28 68. The Presidential Qualification Clause of Article II, Section 1, Clause 5 of the
United States Constitution was included precisely to prevent an ever-escalating set of differing
state requirements for presidential candidates.
29

69. The challenged statute strikes at the very heart of the constitutional framework establishing a unified set of requirements that a citizen must satisfy to contest for the Office of President of the United States in America's only national election.

70. The challenged statute is not an internal Republican or Democratic Party rule.

71. The challenged statute does not prevent and is not related to the prevention of “party raiding” to protect the associational rights of political parties.

72. Defendant's threatened enforcement of the challenged statute is the direct and proximate cause of Plaintiff's constitutional injury as he plans his campaign for the 2024 Republican presidential nomination.

73. Plaintiff DE LA FUENTE's injuries are the direct and proximate result of Defendant's enforcement of RCW 29A.56.031 against Plaintiff.

74. Plaintiff DE LA FUENTE has no other remedy available at law.

VII. COUNT I
(Plaintiff AMERICAN DELTA PARTY
FACIAL CHALLENGE – First and Fourteenth Amendments)

75. Plaintiff AMERICAN DELTA PARTY reasserts each preceding paragraph as if set forth fully herein.

76. The convention requirement imposed on minor political parties for the nomination of candidates for president and vice president of the United States by RCW 29A.56.610 violates the associational rights guaranteed to Plaintiff AMERICAN DELTA PARTY under the First and Fourteenth Amendments to the United States Constitution, for which Plaintiff AMERICAN DELTA PARTY demands relief

VIII. COUNT II
(Plaintiff AMERICAN DELTA PARTY
FACIAL CHALLENGE – First and Fourteenth Amendments)

77. Plaintiff AMERICAN DELTA PARTY reasserts each preceding paragraph as if set forth fully herein.

78. The convention requirement imposed on minor political parties for the nomination of candidates for president and vice president of the United States by RCW 29A.56.610 violates the associational rights guaranteed to Plaintiff AMERICAN DELTA PARTY under the First and Fourteenth Amendments.

79. The additional requirements imposed by RCW 29A.56.620, RCW 29A.56.630, RCW 29A.56.640, RCW 29A.56.650, and RCW 29A.56.660, to the extent that they impose additional requirements referencing, related to the holding and/or conduct of a convention and/or tethered to the requirement of minor political parties to hold a convention in the state of Washington to nominate candidates for president and vice president, impair rights guaranteed to Plaintiff AMERICAN DELTA PARTY under the First and Fourteenth Amendments to the United States Constitution, for which Plaintiff AMERICAN DELTA PARTY demands relief.

IX. COUNT III

(Plaintiff AMERICAN DELTA PARTY
AS-APPLIED CHALLENGE – First and Fourteenth Amendments)

80. Plaintiff AMERICAN DELTA PARTY reasserts each preceding paragraph as if set forth fully herein.

81. The convention requirement imposed on minor political parties for the nomination of candidates for president and vice president of the United States by RCW 29A.56.610 as applied to Plaintiff AMERICAN DELTA PARTY violates the associational rights guaranteed to Plaintiff AMERICAN DELTA PARTY under the First and Fourteenth Amendments to the United States Constitution, for which Plaintiff AMERICAN DELTA PARTY demands relief.

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2 **X. COUNT IV**
3 (Plaintiff AMERICAN DELTA PARTY
4 AS-APPLIED CHALLENGE – First and Fourteenth Amendments)

5 82. Plaintiff AMERICAN DELTA PARTY reasserts each preceding paragraph as if
6 set forth fully herein.

7 83. The convention requirement imposed on minor political parties for the
8 nomination of candidates for president and vice president of the United States by RCW
9 29A.56.610 violates the associational rights guaranteed to Plaintiff AMERICAN DELTA
10 PARTY under the First and Fourteenth Amendments.

11 84. The additional requirements imposed by RCW 29A.56.620, RCW 29A.56.630,
12 RCW 29A.56.640, RCW 29A.56.650, and RCW 29A.56.660, to the extent that they impose
13 additional requirements referencing, related to the holding and/or conduct of a convention
14 and/or tethered to the requirement of minor political parties to hold a convention in the state of
15 Washington to nominate candidates for president and vice president, impair rights guaranteed to
16 Plaintiff AMERICAN DELTA PARTY under the First and Fourteenth Amendments to the
17 United States Constitution for which, Plaintiff AMERICAN DELTA PARTY demands relief.

18
19 **XI. COUNT V**
20 (Plaintiff AMERICAN DELTA PARTY
21 Equal Protection Clause of the Fourteenth Amendment)

22 85. Plaintiff AMERICAN DELTA PARTY reasserts each preceding paragraph as if
23 set forth fully herein.

24 86. The provisions of RCW 29A.56.610 which require minor political parties to hold
25 conventions in the state of Washington to nominate candidates for president and vice president
26 of the United States, exempts major political parties from the same requirement.

87. The Equal Protection Clause of the Fourteenth Amendment prohibits Defendants from imposing rules on some but not all those similarly situated.

88. Plaintiff AMERICAN DELTA PARTY is a political party, the same as the major political parties who are exempted from the requirements of RCW 29A.56.610.

89. Accordingly, RCW 29A.56.610 violates rights guaranteed to Plaintiff AMERICAN DELTA PARTY pursuant to the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution for which Plaintiff AMERICAN DELTA PARTY demands relief.

XII. COUNT VI

(Plaintiff AMERICAN DELTA PARTY

Presidential Elector Qualifications Clause – Article II, Section 1, Clause 2 of the United States Constitution)

90. Plaintiff AMERICAN DELTA PARTY reasserts each preceding paragraph as if set forth fully herein.

91. Defendant has interpreted and enforces the provisions of RCW 29A.56.660 and RCW 29A.56.670 as requiring presidential electors to record addresses within the state of Washington on the certificate of nomination required to be filed by Plaintiff AMERICAN DELTA PARTY.

92. The Presidential Elector Qualification Clause does not require presidential electors to reside within the state in which they are nominated.

93. The Presidential Elector Qualification Clause enumerates the exclusive qualifications to serve as an elector to the Electoral College.

94. Accordingly, Defendant's enforcement of RCW 29A.56.660 and RCW 29A.56.670 violates the Presidential Elector Qualification Clause of Article II, Section 1,

1 Clause 2 of the United States Constitution for which Plaintiff demands relief.

2 **XIII. COUNT VII**

3 (Plaintiff DE LA FUENTE

4 As-Applied Challenge – Violation of Presidential Qualification Clause)

5 95. Plaintiff reasserts each preceding paragraph as if set forth fully herein.

6 96. RCW 29A.56.031 imposes the additional qualification on citizens otherwise
7 qualified to hold the Office of President of the United States that they comply with any
8 additional requirement imposed by a political party to gain access to a taxpayer-funded
9 presidential primary ballot.

10 97. The Presidential Qualification Clause of Article II, section 1, clause 5 of the
11 United States Constitution enumerates the exclusive qualification to hold the Office of President
12 of the United States.

13 98. Accordingly, RCW 29A.56.031 imposes an additional qualification on Plaintiff,
14 who is otherwise qualified under the presidential Qualifications Clause to secure access to the
15 Washington's 2020 primary election ballot in violation of rights guaranteed to Plaintiff DE LA
16 FUENTE under Article II, section 1, clause 5 of the United States Constitution for which
17 Plaintiff requests emergency preliminary and permanent declaratory and injunctive relief
18 against Defendant's threatened enforcement of RCW 29A.56.031.

19 **XIV. REQUEST FOR RELIEF**

20 WHEREFORE, Plaintiff AMERICAN DELTA PARTY respectfully request that this
21 Court:

22 (A) Enter emergency preliminary injunctive relief against Defendant from enforcing
23 RCW 29A.56.610 for the nomination of presidential and vice-presidential candidates by
24 convention by minor political parties in the 2020 presidential general elections;

1 (B) Enter emergency preliminary injunctive relief against Defendant from enforcing
2 all convention related requirements imposed by RCW 29A.56.600, RCW 29A.56.610, RCW
3 29A.56.620, RCW 29A.56.630, RCW 29A.56.640 and RCW 29A.56.640 for the 2020
4 presidential general election;

5 (C) Enter permanent injunctive relief against Defendant from enforcing RCW
6 29A.56.610 for the nomination of presidential and vice presidential candidates by convention by
7 minor political parties in all future presidential general elections;

8 (D) Enter permanent injunctive relief against Defendant from enforcing all
9 convention related requirements imposed by RCW 29A.56.600, RCW 29A.56.610, RCW
10 29A.56.620, RCW 29A.56.630, RCW 29A.56.640 and RCW 29A.56.640 in all future
11 presidential general elections;

12 (E) Declare the requirement imposed pursuant to RCW 29A.56.610 that minor
13 political parties hold conventions in the state of Washington to nominate candidates for
14 president and vice president of the United States unconstitutional;

15 (F) Declare the requirements related to the holding of conventions by minor political
16 parties to nominate candidates for president and vice president of the United States pursuant to
17 RCW 29A.56.600, RCW 29A.56.610, RCW 29A.56.620, RCW 29A.56.630, RCW 29A.56.640
18 and RCW 29A.56.640 unconstitutional;

19 (G) Enter emergency preliminary injunctive relief against Defendant's enforcement
20 of RCW 29A.56.660 and RCW 29A.56.670 to require candidates for presidential electors listed
21 on certificates of nomination to be residents of the state of Washington for the 2020 presidential
22 general election;

23 (H) Enter permanent injunctive relief against Defendant's enforcement of RCW

1 29A.56.660 and RCW 29A.56.670 to require candidates for presidential electors listed on
2 certificates of nomination to be residents of the state of Washington in all future presidential
3 general elections;

4 (I) Declare against Defendant's enforcement of RCW 29A.56.660 and RCW
5 29A.56.670 to require candidates for presidential electors listed on certificates of nomination to
6 be residents of the state of Washington unconstitutional;

7 (J) Award Plaintiff AMERICAN DELTA PARTY the cost of this action together
8 with Plaintiff's reasonable attorney fees and expenses pursuant to 42 U.S.C. § 1988; and,

9 (K) Retain jurisdiction of this action and grant Plaintiff AMERICAN DELTA
10 PARTY such other relief which in the determination of this Honorable Court to be necessary
11 and proper.

12 WHEREFORE, Plaintiff DE LA FUENTE respectfully requests that this Court:

13 (A) Enter permanent injunctive relief against Defendant from enforcing RCW
14 29A.56.031 in future presidential primary elections;

15 (B) Declare RCW 29A.56.031 unconstitutional;

16 (C) Award Plaintiff the cost of this action together with Plaintiff's reasonable
17 attorney fees and expenses pursuant to 42 U.S.C. § 1988; and,

18 (D) Retain jurisdiction of this action and grant Plaintiff such other relief which in the
19 determination of this Honorable Court to be necessary and proper.

20 Respectfully submitted,

21 Dated this 26th day of March, 2020.

22 BADGLEY MULLINS TURNER PLLC

23 /s/ Donald H. Mullins

24 Donald H. Mullins, WSBA #4966

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Attorney for Plaintiffs

1 **CERTIFICATE OF SERVICE**

2 Plaintiffs, by and through the undersigned hereby certifies that the foregoing Amended
3 Complaint was filed with the Clerk of this Court through the Court's ECF system. Plaintiffs
4 further certify that that opposing counsel is a registered ECF filer and automatically received
5 service of this filing through the Court's ECF system.

6
7 DATED this 26th day of March 2020.
8

9 *s/Jennifer Bates* _____
10 Jennifer Bates, Paralegal